

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RICHARD WEDDLE,

Plaintiff,

v.

BAZE et al.,

Defendants.

3:15-cv-00338-RCJ-WGC

ORDER

I. DISCUSSION

On January 26, 2016, this Court issued a screening order: (1) denying the application to proceed *in forma pauperis* as moot; (2) dismissing the complaint in its entirety for failure to state a claim; (3) directing Plaintiff to file a habeas corpus petition and an application to proceed *in forma pauperis* in a new action; and (4) certifying that any *in forma pauperis* appeal would not be taken in good faith. (ECF No. 4 at 5). In the screening order, the Court had found that Plaintiff believed that he should be released from prison 19 months and 20 days earlier than currently scheduled, thus, challenging the duration of Plaintiff's confinement. (*Id.* at 4).

On February 8, 2016, Plaintiff filed a motion for reconsideration. (ECF No. 7). Plaintiff argues that his case is not a habeas case and that he should be awarded monetary damages. (*Id.* at 7-8). Plaintiff requests that the Court rescind the portion of its order stating that an appeal would not be taken in good faith. (*Id.* at 8). Plaintiff asks this Court to permit him to appeal the Court's screening order. (*Id.*).

A motion to reconsider must set forth "some valid reason why the court should reconsider its prior decision" and set "forth facts or law of a strongly convincing nature to persuade the court to reverse its prior decision." *Frasure v. United States*, 256 F.Supp.2d

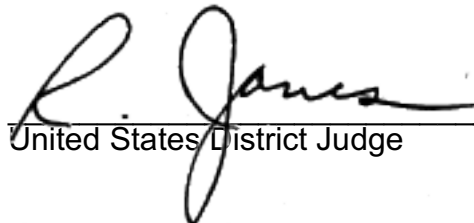
1 1180, 1183 (D. Nev. 2003). Reconsideration is appropriate if this Court “(1) is presented with
2 newly discovered evidence, (2) committed clear error or the initial decision was manifestly
3 unjust, or (3) if there is an intervening change in controlling law.” *Sch. Dist. No. 1J v. Acands,*
4 *Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). “A motion for reconsideration is not an avenue to
5 re-litigate the same issues and arguments upon which the court already has ruled.” *Brown v.*
6 *Kinross Gold, U.S.A.*, 378 F.Supp.2d 1280, 1288 (D. Nev. 2005).

7 The Court denies the motion for reconsideration. After reviewing the complaint, the
8 screening order, and the motion for reconsideration, the Court finds that it did not commit clear
9 error in its screening order. Additionally, although this Court denied Plaintiff’s application to
10 proceed *in forma pauperis* as moot (which prevented Plaintiff from being charged \$350 in this
11 dismissed action) and found that an appeal would not be taken in good faith, Plaintiff may still
12 appeal this Court’s decision. Pursuant to Federal Rule of Appellate Procedure 24, Plaintiff
13 may file a separate application to proceed *in forma pauperis* in the appellate court. Fed. R.
14 Civ. P. 24.

15 **II. CONCLUSION**

16 For the foregoing reasons, IT IS ORDERED that the motion for reconsideration (ECF
17 No. 7) is denied.

18 DATED: This 4th day of March, 2016.

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22 United States District Judge
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